



# Building Order

BO-005/24

04/04/2024

Gerrard R Borghesi & Bronwyn L Borghesi  
10-12 View Point Road  
MCCRAE VIC 3938

## RE: 10-12 View Point Road MCCRAE VIC 3938

The Show Cause period of the Building Notice previously issued has now expired.

I can confirm that your written representations with regards to the matters raised in the Building Notice have been considered by the Municipal Building Surveyor.

Pursuant to the Section 111 of the Building Act 1993, after the end of the Show Cause period allowed by the Building Notice and consideration of any representation made the Municipal Building Surveyor is required to make a Building Order (as attached) directing the owner of the property to undertake works.

It is imperative that you address the items in the Order immediately, non compliance with the Order can carry a penalty of 500 penalty units for a natural person or 2500 penalty units for a body corporate (one penalty unit equates to in excess of \$165.00).

I draw your attention to your appeal rights as noted at the rear of the Order.

Once the directions in the Order have been completed please contact me to confirm such and arrange any required inspections.

Should you require any clarification, please do not hesitate to contact me on (03) 5950 1060.

Yours faithfully

Irrelevant & Sensitive

Claudio Flores  
**Authorised Person**  
Statutory Building Team  
Mornington Peninsula Shire Council

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## Contact the Mornington Peninsula Shire

📞 1300 850 600  
🌐 [mornpen.vic.gov.au](http://mornpen.vic.gov.au)  
✉️ [customerservice@mornpen.vic.gov.au](mailto:customerservice@mornpen.vic.gov.au)

By post: Private Bag 1000,  
90 Besgrove Street, Rosebud VIC 3939  
ABN: 53 159 890 143



## FORM 12

**Building Act 1993**  
**Building Regulations 2018**  
 Regulation 182(1)

# BUILDING ORDER

**DUE DATE:**

**03 June 2024**

This building order is made under Section 111 of the **Building Act 1993**.

**TO:**

The owners Gerrard R Borghesi & Bronwyn L Borghesi  
 Of 10-12 View Point Road MCCRAE VIC 3938

**FROM:**

I am a delegated building surveyor under Section 216B of the Building Act 1993 ("Act") for the Mornington Peninsula Shire Council.

I am authorised to make a building order under Section 111 of the Act.

**LOCATION OF THE LAND TO WHICH THIS NOTICE APPLIES:**

**10-12 View Point Road MCCRAE VIC 3938 CP 109563 Vol 9438 Fol 254**

**ORDER:**

I, as the relevant building surveyor, order that:

1. By 5.00pm on 03 June 2024, the owner of the land **MUST** carry out the following building work.

- 1.1 **Remove all the landslip debris from Penny Lane in accordance with geotechnical recommendations after first obtaining the Council permits and approvals.**

**The proposed work must be undertaken to the satisfaction of Council and sufficient evidence to the satisfaction of the Municipal Building Surveyor must be provided upon the completion of work to confirm its suitability.**

**REASON(S) WHY THIS ORDER WAS MADE:**

In accordance with Section 111 of the Act, I am of the opinion that the following circumstance exists:

**a. Danger to life, safety or health from land.**

The land is a danger to the life, safety or health of any member of the public or of any person using the land or to any property.

The subject land is a danger to the life and safety of the public and adjoining properties as a result of the unstable condition of the land due to a land slip and associated debris.

**DETAILS OF RELEVANT BUILDING NOTICE:**

Date of service of building notice: 07 February 2024

Due date for making representations as specified in the building notice: 13 March 2024

A copy of the relevant building notice is attached to this building order.

At the date of making this order, the due date for the owner to make representations has now expired.

Representations were made by the owner and received on the 12 March 2024. After considering these representations, I am of the opinion that, for the reasons set out in this order, the making of this building order is warranted.

**INSPECTION DETAILS:**

The date and time of any inspections of the land carried out by myself as the relevant building surveyor were —

Time of inspection: 2:20pm

Date of inspection: 18 November 2022

Time of inspection: 2:40pm

Date of inspection: 28 March 2023

Time of inspection: 1:00pm

Date of inspection: 06 February 2024

**BUILDING ORDER MADE BY:****Relevant building surveyor**

Name: Claudio Flores

Qualification: AdvDipBS

Address: 2 Queen Street, Mornington, Victoria 3931

Email: florescl@mornpen.vic.gov.au

Building practitioner registration no: BS-U 64209

Municipal district : Mornington Peninsula Shire

Building order no: BO-005/24

Date of making: 04/04/2024

Signature:

Irrelevant & Sensitive

# Notes

## 1. Duration of a Building Order.

A building order remains in force, and if amended remains in force as amended, until it is complied with or cancelled by the municipal building surveyor or the Building Appeals Board pursuant to Section 117 of the Act.

## 2. Amendment or Cancellation of a Building Order.

If there is a change in circumstances after the service of a building order, the owner may request in writing the relevant building surveyor to amend or cancel the order pursuant to Section 116 of the Act.

## 3. Contravention of building order

(1) A person to whom a building order is directed must comply with that order, Penalty 500 penalty units in the case of a natural person. Or 2500 penalty units in the case of a body corporate.

(2) A person must not occupy a building, land or place in contravention of a building order. Penalty 500 penalty units in the case of a natural person. Or 2500 penalty units in the case of a body corporate.

## 4. Appeals to the Building Appeals Board.

Under Section 142(2) of the Act, an owner of a building or land may appeal to the Building Appeals Board against a decision to serve a building order, a failure within a reasonable time, or refusal to cancel a building order to stop work. In accordance with Section 146 of the Act and Regulation 271 of the Regulations the prescribed appeal period is 30 days from the date of the building order.

**If you require any further information, please contact Claudio Flores of the  
Statutory Building Unit on (03) 5950 1060 or 1300 850 600.**

**FILE NOTE OF SERVICE BUILDING ORDER**

Subject Property: 10-12 View Point Road MCCRAE VIC 3938

Addressee Name: Gerrard R Borghesi & Bronwyn L Borghesi – A separate order has been sent to each individual owner.

Relationship to subject property (circle): **private owner/s // company owner // director owner // occupier // builder**

The Building Order (BO-005/24 dated 04/04/2024 was viewed by me prior to posting. I certify that the covering letter, signed Building Order and attached notes including explanatory notes were served by me by:

☐ Delivering the document to (the person).....  
at (address).....  
on (date)..... at (time) ..... pursuant to **s236(1)(a)**.

☐ Leaving the document for the person at (address).....  
on (date)..... at (time) ..... with (name of person document left with)  
..... pursuant to **s236(1)(b)**.

*Being the persons last known or usual place of residence or business with a person apparently not less than 16 years of age who is apparently residing at that address*

☐ Delivering the document to the Australia Post post box outside 15 Main Street, Mornington and sending the document by standard post addressed to the person at the person's last known or usual place or residence or business as indicated on the document on (date).....04/04/2024.. at (time) ...5pm..... pursuant to **s236(1)(c)**. *Note : Not being a PO Box*

**Additional copies of documentation sent (not considered service pursuant to s236):**

- ☐ PO Box ..... on (date) ..... at (time) .....
- ☐ Email address .....on (date) ..... at (time) .....
- ☐ Placed onsite .....on (date) .....at (time) .....

**In relation to LAND where name and address of owner unknown and there is no occupier**

☐ Putting the Building Order up in a conspicuous position on the land (description of where document put up/placed).....  
on (date)..... at (time) ..... pursuant to **s236(4)**.

**Building Order issued under section 111(3) and/or section 111(4) of the Building Act**

☐ Putting the Building Order up in a conspicuous position on the building, land or place of public entertainment to which it applies (description of where document put up /placed).....  
on (date)..... at (time) ..... pursuant to **s236(4)(a)**.  
Other .....  
on (date)..... at (time) .....

Officer Signature:.....

Irrelevant & Sensitive

Authorised Person: Claudio Flores

Statutory Building Team Mornington Peninsula Shire Council